

7:21-cv-00065

**CAUSE NO. CL-21-0172-A**

**HILDA V. YBARRA,**  
*Plaintiff,*

V.

**COSTCO WHOLESALE  
CORPORATION**  
*Defendant*

**§ IN THE COUNTY COURT**

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## AT LAW NO. 1

## HIDALGO COUNTY, TEXAS

**COSTCO WHOLESALE CORPORATION'S ORIGINAL ANSWER TO PLAINTIFF'S  
ORIGINAL PETITION**

Defendant, Costco Wholesale Corporation (“Costco”), files its Original Answer to Plaintiff’s Original Petition and in support thereof shows unto the Court the following:

I.

## **GENERAL DENIAL**

1. Subject to such stipulations and admissions as may hereinafter be made, Costco asserts a general denial as authorized by Rule 92 of the Texas Rules of Civil Procedure, and respectfully requests that Plaintiff be required to prove the charges and allegations made against Costco by a preponderance of the evidence as required by the Constitution and laws of the State of Texas.

II.

## AFFIRMATIVE DEFENSES

2. Costco affirmatively pleads pursuant to Section 33 of the Texas Civil Practices and Remedies Code that Plaintiff's claim is barred in whole or in part by the proportionate responsibility of Plaintiff's own negligence, or of that of a responsible third party over whom Costco had no control, which were the sole or an alternative proximate cause of the occurrence and damages complained of by Plaintiff.

3. Costco affirmatively pleads that it is entitled to any and all relief permitted pursuant to Section 41.0105 of the Texas Civil Practice and Remedies Code in the form of an evidentiary exclusion of any and all damages amounts not actually paid or incurred by or on behalf of Plaintiff. In the alternative, Costco seeks a deduction in any post-verdict award, if any, based on those amounts.

4. Costco affirmatively pleads that the recovery of damages claimed by Plaintiff is limited pursuant to Section 18.091 of the Texas Civil Practice and Remedies Code. For any recovery seeking loss of earnings, loss of earning capacity, loss of contribution of a pecuniary value, or loss of inheritance, that evidence must be presented for proof in the form of a net loss after reduction for income tax payments or unpaid liability pursuant to any federal income tax law.

### III.

#### PRAYER

For the foregoing reasons, Costco, COSTCO WHOLESALE CORPORATION, prays that Plaintiff recovers nothing from Costco, that the Court enter Judgment that Costco recover all costs of court, and for all other relief to which Costco may be entitled.

Respectfully submitted,

By: /s/ Robert A. Valadez  
ROBERT A. VALADEZ  
State Bar No. 20421845

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**ATTORNEY FOR DEFENDANT  
COSTCO WHOLESALE  
CORPORATION**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was forwarded in accordance with the Texas Rules of Civil Procedure on the 29<sup>th</sup> day of January, 2021 to:

**VIA E-SERVICE**

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/s/ Robert A. Valadez  
ROBERT A. VALADEZ

**CAUSE NO. CL-21-0172-A**

<b>HILDA V. YBARRA,</b> <i>Plaintiff,</i>	§ § § § § § § § §	<b>IN THE COUNTY COURT</b>
<b>v.</b>		<b>AT LAW NO. 1</b>
<b>COSTCO WHOLESALE</b> <b>CORPORATION</b> <i>Defendant</i>		<b>HIDALGO COUNTY, TEXAS</b>

**DEFENDANT COSTCO WHOLESALE CORPORATION'S DEMAND FOR JURY**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, COSTCO WHOLESALE CORPORATION, tenders the proper jury fee and respectfully demands a trial by jury.

Respectfully submitted,

*/s/ Robert A. Valadez*  
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ATTORNEY FOR DEFENDANT  
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